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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,440	01/16/2004	Ronald T. Crocker	CE10440R	7843
22917	7590	10/14/2009		
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196				
EXAMINER				
SAFAIPOUR, BOBBAK				
ART UNIT		PAPER NUMBER		
2618				
NOTIFICATION DATE		DELIVERY MODE		
10/14/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

Office Action Summary

Application No.

10/759,440

Applicant(s)

CROCKER ET AL.

Examiner

BOBBAK SAFAIPOUR

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/19/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-52 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims 1-17 and 49**, drawn to a method for facilitating a PTT session initiation using an IP based protocol, classified in class 455, subclass 518.
- II. **Claims 18-28 and 50**, drawn to maintaining by a packet control function session information relating to a dormant IP data session, classified in class 370, subclass 395.52.
- III. **Claims 29-44 and 51**, drawn to generating, by the PCF in response, messaging using information from the session information and session initiation request messaging, classified in class 455, subclass 414.2.
- IV. **Claims 45-48 and 52**, drawn to generating by the PCF responsive to the indication that the target unit is not available, target not available messaging using information from the session information and the session initiation request messaging, classified in class 455, subclass 412.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as a method for facilitating a push-to-talk (PTT) session initiation using an Internet Protocol

(IP)-based protocol, the method comprising: detecting, by an originator unit, a session initiation indication; sending, by the originator unit in a non-IP format, a session initiation request for the PTT session, to a base station (BS) via a CDMA access channel; sending, by the originator unit to the BS, a channel assignment request for the PTT session via a CDMA access channel; and receiving, by the originator unit, messaging in response to the session initiation request, subcombination II has separate utility such as a method for facilitating a push-to-talk (PTT) session initiation using an Internet Protocol (IP)-based protocol, the method comprising: maintaining, by a packet control function (PCF), session information relating to a dormant IP data session of an originator unit; receiving, by the PCF from the originator unit via a base station (BS), a session initiation request in a non-IP format for the PTT session; generating, by the PCF, an IP-based message using the session information and the session initiation request in a non-IP format; and sending, by the PCF, the IP-based message to a PTT server, subcombination III has separate utility such as a method for facilitating a push-to-talk (PTT) session initiation using an Internet Protocol (IP)-based protocol, the method comprising: maintaining, by a packet control function (PCF), session information relating to a dormant IP data session of a target unit; receiving, by the PCF from a PTT server, session initiation request messaging for the target unit for the PTT session; requesting, by the PCF in response to the session initiation request messaging, that the target unit be paged; receiving, by the PCF from a base station (BS), an indication that the target unit responded to a page; generating, by the PCF in response to the indication that the target unit responded to the page, response messaging using information from the

session information and the session initiation request messaging; and sending, by the PCF, the response messaging to the PTT server, and subcombination IV has separate utility such as a method for facilitating a push-to-talk (PTT) session initiation using an Internet Protocol (IP)-based protocol, the method comprising: maintaining, by a packet control function (PCF), session information relating to a dormant IP data session of a target unit; receiving, by the PCF from a PTT server, session initiation request messaging for the target unit for the PTT session; requesting, by the PCF in response to the session initiation request messaging, that the target unit be paged; receiving, by the PCF, an indication that the target unit is unavailable; generating, by the PCF, responsive to the indication that the target unit is not available, target-not-available messaging using information from the session information and the session initiation request messaging; and sending, by the PCF, the target-not-available messaging to the PTT server. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election

shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BOBBAK SAFAIPOUR whose telephone number is (571)270-1092. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bobbak Safaipour/
Examiner, Art Unit 2618

September 30, 2009

/Matthew D. Anderson/
Supervisory Patent Examiner, Art Unit 2618